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November 7, 2023

**BY ECF**

The Honorable LaShann DeArcy Hall  
 United States District Judge  
 225 Cadman Plaza East  
 Brooklyn, New York 11201

Re: *Eric Weiss v. City of New York, et al.*, 16 CV 776 (LDH) (RER)

Your Honor:

I represent the plaintiff in the above-referenced civil rights action. I write to request an adjournment of the trial scheduled for December 4, 2023, to a date that is convenient for the Court and the parties. While we are anxious for this case to proceed, there are a number of reasons for this request. I have conferred with defense counsel, who takes no position, and thus do not oppose this request.<sup>1</sup>

As an initial matter, Mr. Weiss has confirmed in the past few days that he has shoulder and bicep surgery scheduled for December 8, 2023, and that another surgery is scheduled for December 28, 2023. An adjournment would allow Mr. Weiss to address these serious health issues in advance of trial.

In addition, I have a continued trial in the Court of Claims for a matter that is older than this case that is scheduled to resume on December 4, 2023 and to last the entire week of December 4, 2023. The trial started in May 2021 and was continued to next month. Because there was a change of defense counsel in the NYS Attorney General's Office within the past month or so, there was a likelihood that the State would require an adjournment. The parties recently conferred the case with the Court wherein it was confirmed that the State is ready to proceed with new counsel, and that if the Court were to adjourn that matter, it would not have an adjourn date available until 2025.

I also note that we have a brief due in the Second Circuit on November 27, 2023. Given the resources of our 2-attorney firm, this deadline significantly impacts our ability to fully prepare for trial.

Finally, the parties have in recent weeks been engaged in high level settlement discussions that remain challenging to the parties but are nonetheless ongoing. An adjournment would allow the parties to exhaust all options, including mediation and/or a settlement conference with a magistrate judge if the Court were inclined to permit such.

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<sup>1</sup> Defendants are prepared to proceed to trial on December 4, 2023, a trial date which was set over one year ago. (Docket Entry dated Nov. 3, 2022). While defendants are sympathetic to the issues raised by plaintiff, we are also mindful of the likely difficulty of rescheduling this trial given the Court's docket.

Thank you for your consideration.

Respectfully submitted,

*Brett Klein*

Brett H. Klein

cc: Mary K. Sherwood, Esq. (by ECF)  
Rachel Seligman, Esq. (by email)